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v.

ORLANDO D. FRANCO,

Respondent.

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## UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

Case No. CV 14-1856 (SS)

NL INVESTMENTS, INC., Petitioner,

IMPROPERLY-REMOVED ACTION

ORDER SUMMARILY REMANDING

The Court will remand this unlawful detainer action to state court summarily because Defendant removed it improperly.

On March 12, 2014 Defendant Orlando F. Franco, having been sued in what appears to be a routine unlawful detainer action in California state court, lodged a Notice Of Removal of that action to this Court and also presented an application to proceed in forma pauperis. The Court has denied the latter application under separate cover because the action was not properly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

## Case \$:14-cv-01856-UA-DUTY Document 4 Filed 04/07/14 Page 2 of 2 Page ID #:26

Simply stated, this action could not have been originally filed in federal court because the complaint does not competently allege facts supporting either diversity or federal-question jurisdiction, and therefore removal is improper. 28 U.S.C. § 1441(a); see Exxon Mobil Corp v. Allapattah Svcs., Inc., 545 U.S. 546, 563 (2005). Defendant's notice of removal fails to assert the basis for federal jurisdiction. (Notice at 2). Defendant implies that federal question jurisdiction exists based upon certain federal statutes raised as defenses, but this is insufficient to permit removal. (Notice at 2). Accordingly, the action cannot be removed to federal court. Merrell Dow Pharmaceuticals, Inc. v. Thompson, 478 U.S. 804, 808 (1986) ("[a] defense that raises a federal question is inadequate to confer federal jurisdiction.").

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Accordingly, IT IS ORDERED that (1) this matter be REMANDED to the Superior Court of California, County Of Los Angeles, 275 Magnolia Ave, Long Beach, CA 90802, for lack of subject matter jurisdiction pursuant to 28 U.S.C. § 1447(c); (2) that the Clerk send a certified copy of this Order to the state court; and (3) that the Clerk serve copies of this Order on the parties.

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IT IS SO ORDERED

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DATED: April 3, 2014

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GEORGE H. KING CHIEF UNITED STATES DISTRICT JUDGE